



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 25, 1998

Ms. Sandra C. Joseph  
Chief, Open Records Division  
Comptroller of Public Accounts  
State of Texas  
Austin, Texas 78774-0100

OR98-2026

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118387.

The Office of the Comptroller of Public Accounts has received a request for copies of the "Comptroller's Decision" and corresponding "Attachment A" in tax cases for a certain period "in which the *original* figures were amended, resulting in *final* figures that are different from the *original* figures." You submit a representative sample of the "Comptroller's Decision" and "Attachment A" documents.<sup>1</sup> You contend that, pursuant to Government Code section 552.101 in conjunction with Tax Code section 111.006(a), your office must withhold information in the requested materials which would serve to identify the subject taxpayers. You have marked the information which you believe must be withheld.

Government Code section 552.101 mandates withholding from public release information made confidential by statutory or constitutional law or judicial decision. Tax Code section 111.006(a)(2) provides, with exceptions not applicable here, that "all information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer" is confidential.

As you note, this office has determined, in a number of prior rulings, that in order to comport with section 111.006(a)(2), comptroller hearings-related documents containing information derived from taxpayers must be de-identified before public release. *See, e.g.,*

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<sup>1</sup>Please note that this ruling applies only to information of the kind you submitted as representative samples. It does not cover substantially different material.

Attorney General Opinion H-223(1974); Open Records Letter No. 97-0295 (1997). You say the taxpayer name, number, and information tending to identify the taxpayer should accordingly be withheld. But your particular concern here appears to be whether the "original" and "final" dollar figures on the document styled "Attachment A" should be withheld. You say these figures are "derived" from taxpayer-provided information within the meaning of section 111.006(a)(2), quoted *supra*.

You do not show, nor do we find it apparent, how the dollar figures at issue would tend to identify the taxpayer. Moreover, although the figures may perhaps be said ultimately to "derive" from taxpayer records, so, in that sense, can most of the other information in the final decision be said to "derive" from such records. As noted in Open Records Letter No. 97-0295 (1997), the provisions of section 111.006(a)(2) must be balanced with those in section 552.025 and 552.022(12), Government Code, which provide that tax determination letters and final decisions in the "adjudication of cases" are public. Accordingly, we do not believe that the dollar figures in question should be considered within the scope of the section 111.006(a)(2) confidentiality provision; therefore, they should be released. Apart from the dollar figures, we agree with your other markings, in the documents you submitted, of identifying material which must be withheld pursuant to section 111.006(a)(2).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William M. Walker  
Assistant Attorney General  
Open Records Division

WMW/ch

Ref: ID# 118387

Enclosures: Submitted documents

cc: Mr. Mark D. Borskey  
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(w/o enclosures)